

SECTION V – COMPLIANCE MONITORING PROCEDURES

This section of the manual outlines CTCAC's procedures for monitoring all projects receiving credit. Monitoring is designed to determine if the owner is in compliance with federal and state laws, regulations, and policies. Compliance is solely the responsibility of the owner and is necessary to retain and use the credit, and to avoid recapture of credit already claimed. Also, refer to Committee Regulations Section 10337, which details the compliance requirements.

Monitoring each project is an ongoing activity that extends throughout the credit compliance period. CTCAC is required by law to conduct compliance monitoring and inform the IRS of noncompliance, or the failure of an owner to certify to compliance. CTCAC will report to the IRS no later than 45 days after the period of time allowed for correction. Notification to the IRS by CTCAC is required whether or not the noncompliance has been corrected.

Part 500 The Compliance Manual

CTCAC will provide this compliance manual to owners of tax credit projects when projects are Placed In Service and a final credit allocation has been issued (IRS Form 8609). The manual describes the compliance monitoring procedures that the owner and management agent must follow. Updates will be provided by CTCAC as changes to the law and/or procedures occur and will be available on our website www.treasurer.ca.gov/ctcac/compliance.asp

The manual also contains samples of the required reporting and certification forms that must be completed and submitted to CTCAC, sample tenant eligibility forms, Section 42 of the Code and completed compliance monitoring regulations as published in the Federal Register and other pertinent IRS notices and rulings.

Part 510 Compliance Training Workshops

CTCAC will conduct periodic compliance training workshops. Although attendance is not mandatory, it is recommended that personnel who are directly involved in the ownership or management of the project attend a workshop as soon as is practical either prior to or immediately following the date the project is Placed In Service. The purpose of workshops is to provide instruction on:

A sampling of the basic Code compliance requirements; IRS final regulations for compliance monitoring; CTCAC policy and procedures for compliance reporting; CTCAC policy and procedures for tenant file reviews; equal housing opportunity and fair housing regulations and policies.

The training workshop will also provide specific information on the following low-income tenant eligibility requirements:

Income and rent limits; definitions of income and assets; certification of tenant income and assets; verification of tenant income and assets; leases; student eligibility; reporting

violations of the tax credit program; other owner responsibilities, including notifying CTCAC of any change in management or ownership of the project.

Announcements as to the specific date, time, and location of workshops will always be posted on our webpage at www.treasurer.ca.gov/ctcac/compliance.asp

Part 520 Compliance Files and Records

The following compliance files and records must be maintained by the owner and made available to CTCAC upon request:

- A. Owner Record-keeping and Record Retention Requirements. See Section II, #210 H.
- B. Tenant/Unit File. See Section IV, #460.

Part 530 CTCAC Forms

The following list contains examples of a few of the required forms that project owners/managers submit for annual certifications, and are used to determine tenant eligibility. **A sample of required forms is located in Appendix 3.**

A. Annual Owner Certification

This form is used to certify continuing compliance with Section 42 and is completed by the owner on an annual basis. The Project Ownership Profile (POP) and the Annual Operating Expense Report (AOE) are included with the Annual Owner Certification (AOC) form.

B. Project Status Report

This form is used to detail the move-in income amounts, utility allowances, and gross rent charges for all low-income units in the development and is completed by the owner and/or management agent upon request by CTCAC, for compliance monitoring purposes. The form is submitted electronically and is available on the CTCAC website at www.treasurer.ca.gov/ctcac/compliance.asp

C. Tenant Income Certification

This form summarizes the household composition and income and asset amounts for a particular unit. It is used to certify the eligibility of a tenant to reside in a LIHTC unit and is completed and signed by the owner / management agent and signed by all adults residing in the unit.

D. Tenant Income Certification Questionnaire

This form serves as a worksheet to list all of the sources of income and types of assets held by the applicant and must be completed by the applicant(s).

NOTE: *The Owner/Management Agent may add additional information to Forms C and D as necessary, but may not remove CTCAC required information*

E. Utility Allowance

The local PHA or utility company provides this documentation. This information should be requested quarterly by the owner/management agent to allow for updates in cost of living allowances for each county. It provides estimates of average utility charges and is used to determine tenant utility allowances. CTCAC does not provide any utility company or PHA rate information per bedroom size; it is the owner's responsibility to ensure that the most up-to-date utility allowance information is in use at the property.

F. Child Support and/or Spousal Support Release form (updated July 2007)

The Child Support Verification form was required as of June 2004. It is used to document any form of child support including personal and court ordered. It was updated in July of 2007 to include spousal support.

G. CTCAC Lease Rider (Good Cause Eviction)

The CTCAC Lease Rider is a required form and can be found on CTCAC's website. The Lease rider informs tax credit households that they may not be evicted or refuse to have their leases renewed unless the owner or management agent has good cause. The Lease Rider outlines the protections household members can enforce if an eviction without cause occurs.

The Lease Rider must be signed at initial leasing only. If additional members are added to a household or a child in the household reaches 18, the original lease rider document should be signed with the current recertification date. The Lease Rider must be included with the lease.

H. Pay Stubs:

Starting in June of 2004, CTCAC requires three months worth of pay stubs for all new move-ins. This requirement is in addition to the Verification of Employment and should not be considered a substitute for the VOE or any other verifiable third party documentation.

Signatures are required from all adult household members, age 18 or over, on all CTCAC required forms.

Part 540 Annual Certification with Section 42

Annual compliance information must be reported by the owner for existing tax credit projects when requested by CTCAC, beginning with the year for which credit was first claimed.

The annual compliance requirements are as follows:

A. Annual Owner Certification (AOC)

Failure to supply legible and thoroughly complete Owner Certifications when due will be considered noncompliance and is reportable on IRS Form 8823. The AOC's are due each year by March 1st. The forms will be posted on the CTCAC web site page in January of each year.

B. The Project Ownership Profile (POP) is considered part of the AOC.

For more information regarding the AOC, see Section II, #210 E.

C. Annual Operating Expense Report (AOE)

Failure to supply legible and thoroughly complete Annual Operating Expense Reports (AOE) when due will be considered noncompliance.

For more information regarding the AOE, see Section II, #210 E.

D. Project Status Report

Currently not required on an annual basis (requested by CTCAC prior to the time of property inspection). Compliance is monitored on a building by building basis. This form is used to detail the move-in income amounts, utility allowance, and gross rent charges for all low-income units in the development and is completed by the owner and/or management agent upon request by CTCAC. Failure to complete and return the PSR with accurate and current tenant information per building on date requested will be noted as failure to cooperate with a State Agency monitoring Inspection and is reportable as an issue of noncompliance.

E. Utility Allowance Documentation

Currently not required on an annual basis.

For more information regarding utility allowances, see Section III, #330.

F. Due Dates for Annual Certifications and Monitoring Fees

Monitoring fees are due when the Regulatory Agreement and Form 8609 are executed by CTCAC. Annual owner certifications of compliance with Section 42 are due for each year of the compliance period, beginning with the first year for which credit is claimed. These certifications must be received by CTCAC by the due date shown on the annual CTCAC AOC request letter.

For example:

<i>Number of Low-income Units</i>	<i>150</i>
<i>Total Number of Residential Units</i>	<i>150</i>
<i>Placed in Service (PIS)</i>	<i>June 1, 2005</i>
<i>First Occupied</i>	<i>June 1, 2005</i>

Scenario 1: Credit is claimed in the same year the project is PIS:

If credit is claimed for the year ending 12/31/2005, compliance certifications must be submitted to CTCAC for the year ending 12/31/2005. The first Project Status Report (PSR) must reflect all tenant activity from the PIS date through the year-end (6/1/2005 through 12/31/2005). These certifications would be due by a specified date in 2006. The second PSR would reflect all activity from 1/1/2006 through 12/31/2006 and would be due no later than the specified date in 2007. For more information regarding monitoring fees, see Section V, #560.

Scenario 2: Credit is first claimed in the year after the project is PIS:

If credit was not claimed for the year ending 12/31/2005 and is first claimed for the year ended 12/31/2006, compliance certifications must be submitted for the year ending 12/31/2006. The first PSR must reflect all tenant activity from the PIS date through the last date of the year for which credit was first claimed (6/1/2005 through 12/31/2006). These certifications must be received by CTCAC by the specified date in 2007. No certifications or monitoring fees would be due on 2/1/2006. The second PSR would reflect all activity from 1/1/2007 through 12/31/2007 and would be due no later than the specified date in 2008.

Part 550 CTCAC Tenant/Unit File Review and On-site Project Inspections

As provided in IRS compliance monitoring regulations, CTCAC is required to review a project's Tenant/Unit Files, Development File, and recordkeeping and record retention files.

Beginning in 2001 and pursuant to new IRS Regulations, the Committee or its agent will conduct file and on-site physical inspections for all projects no later than the end of the second calendar year following the year the last building in the project is Placed In Service, and once every three years thereafter. The physical inspections will be of at least 20% of the low-income units in each project. The tenant file reviews will also be for at least 20% of the low-income units in each project, but may be conducted on-site or off-site. Each year the Committee shall select projects for which site inspections will be conducted. The projects shall be selected using guidelines established by the Executive Director for such purpose, while the units and tenant records to be inspected shall be randomly selected. Advance notice shall not be given of the Committee's selection process, or of which tenant records and units will be inspected at selected projects; however, an owner shall be given reasonable notice prior to a project inspection date.

A. When performing an on-site review, CTCAC will:

1. Notify the owner and management agent in advance of the intended site visit.
***NOTE:** Physical inspection will be of the project grounds, common amenities, and occupied units. Staff may ask to see vacant units and inquire as to the reason for and duration of the vacancy.*
2. Inform the management agent on the day of the review which units and unit files will be inspected.
3. Inform the owner of any findings of noncompliance with regard to such review.

4. Inform the owner of a time line to respond to CTCAC with correction of any noncompliance. CTCAC may extend the correction period up to six months, but only if the Authority/Committee determines there is good cause for granting the extension.
5. Report all instances of noncompliance to the IRS whether or not the noncompliance has been corrected.
6. Require **ORIGINAL** documentation.
7. Require that the review of the files and units will occur at the project site. If tenant files are kept at a central management office, they must be brought to the property on the date of the monitoring inspection. Exceptions may be made on a case-by-case basis at the discretion of the Analyst conducting the inspection.

B. CTCAC reserves the right to perform an in-house (at CTCAC) review. CTCAC will:

1. Notify the owner in writing which unit files have been selected for review.
2. Request that the owner mail the selected files and documentation to CTCAC.
3. Give a time frame (up to 30 days) in which the tenant file documentation must be submitted.
4. Inform the owner of any findings of noncompliance with regard to such review.
5. Allow the owner a time line to notify and respond to CTCAC of any correction of noncompliance.
6. Report all instances of noncompliance to the IRS whether or not the noncompliance has been corrected.

Part 560 Compliance Monitoring Fees (\$410 per unit)

The Committee currently charges a one time per unit fee to cover the costs associated with compliance monitoring throughout the Extended-Use Period. Payment of the fee shall be made prior to the issuance of federal and/or state tax forms. Any alternative timing for payment of the fee, may be approved in the sole discretion of the Executive Director and shall only be considered where convincing proof of financial hardship to the owner is provided.

Failure to submit the fee will be considered an act of noncompliance.

The per unit lump sum fee must be paid for the manager/employee-occupied unit(s) if this unit(s) is being counted as a “rental unit” for purposes of determining the low-income occupancy percentage for the building. If the manager/employee-occupied unit(s) is being considered as “common space,” no monitoring fee is required for this unit(s). For more information on the manager’s unit, see Section III, #340 E.

Part 570 Compliance Period

The compliance period begins on the date on which the project is Placed In Service. For more information regarding the compliance period, see Section I, #120. For more information regarding due dates, see Section V, #540 F.

Part 580 Amendments to Compliance Monitoring Procedures

The compliance monitoring procedures and requirements set forth herein are issued by CTCAC pursuant to Federal Regulations. These provisions may be amended by CTCAC, for purposes of conforming to the Federal Regulations and/or as may otherwise be appropriate, as determined by CTCAC or the IRS. In the event of any inconsistency or conflict between the terms of these monitoring procedures and the monitoring procedures set forth in such Regulations, the provisions set forth in the Regulations shall control.